THE BOMBAY SUGARCANE CESS ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

CHAPTER I.

PRELIMINARY.

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II.

LEVY AND COLLECTION OF CESS.

3. Local area.
4. Imposition of cess.
5. Licence for consuming or using sugarcane in notified factory.
6. Returns.
7. Collection of cess.
8. Finality of assessment and recovery of unpaid cess.

CHAPTER III.

MISCELLANEOUS.

9. Power to inspect factories and take copies of records and accounts.
10. Information acquired to be confidential.
11. Application of proceeds of cess.
12. Penalty.
13. Determination of occupier for the purpose of Act.
14. Power to make rules.

CHAPTER IV.

TRANSITIONAL PROVISIONS—*Deleted.*

BOMBAY ACT No. LXXXII OF 1948.[1]

[THE BOMBAY SUGARCANE CESS ACT, 1948.]

[*17th February 1949*].

Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 56 of 1950.
Amended by Bom. 61 of 1950.

An Act to levy cess and to establish a fund for the purposes of the development and improvement of the cultivation, growth and marketing of sugarcane and other irrigated crops, for the development of sugar industry and for the improvement and development of agriculture in general.

WHEREAS it is expedient to provide for the levy of a cess and establishment of a fund for the development and improvement of the cultivation, growth and marketing of sugarcane and other irrigated crops and for the development of sugar industry and for the improvement and development of agriculture in general in the [2][State] of Bombay ; and for certain other purposes hereinafter specified ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Sugarcane Cess Act, 1948.
(*2*) It extends to the whole of the [2][State] of Bombay.
(*3*) It shall come into force on such date as the [3][State] Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—
(*1*) " factory " means any premises including the precincts thereof, wherein twenty or more workers are working or were working on any day of the preceding twelve months and in any part of which any manufacturing process connected with the production of sugar by means of vacuum pans is being carried on, or is ordinarily carried on, with the aid of power ;
(*2*) " local area " means any area comprised in such factories as may be specified in the notification under section 3 ;
(*3*) " notified factory " means a factory specified in the notification under section 3 ;
(*4*) " Occupier " means the person who has ultimate control over the affairs of a notified factory ; Provided that where the affairs of such factory are entrusted to a managing agent, such agent shall be deemed to be the occupier ;
[4][(*5*) "ton" means a ton of 2,240 pounds (avoirdupois) ;]
(*6*) " prescribed " means prescribed by rules made under this Act.

CHAPTER II.

LEVY AND COLLECTION OF CESS.

Local area.

3. The [3][State] Government may by notification in the *Official Gazette*, specify any factory the area comprised in which shall be a local area for the purposes of this Act.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 567.
[2] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.
[3] This word was substituted for the word " Provincial ", *Ibid.*
[4] Clause (5) was substituted for the original by Bom. 61 of 1950, s. 2.

Imposition of cess.

4. A cess at such rate not exceeding [1][ten rupees per ton] as may be specified by the [2][State] Government in a notification in the *Official Gazette* shall be levied on the entry of sugarcane into a local area for consumption or use therein :

[3][Provided that for the purpose of levying the cess, there shall be deducted from the gross weight of sugarcane entering into the local area during any month for consumption or use, such proportion thereof as may be prescribed representing the average weight of the tops of the sugarcane plant consisting of pith devoid of any sugar content and leaves and other trash usually present in the sugarcane and the cess shall be levied only on the remaining weight of the sugarcane after such deduction has been made].

Licence for consuming or using sugarcane in notified factory.

5. (*1*) After such date as the [2][State] Government may, by notification in the *Official Gazette*, specify, no sugarcane shall be consumed or used in a notified factory unless the occupier thereof has obtained a licence authorising him to do so.

(*2*) An application for such licence shall be accompanied by such fee and shall be made to such authority and in such manner as may be prescribed.

(*3*) On receipt of such application and after due verification by the authority concerned, a licence shall be granted :

Provided that the authority concerned may refuse to grant a licence to any occupier, if he has already cancelled, or refused to renew a licence previously granted to such occupier.

(*4*) A licence granted under this section shall be subject to such conditions as may be prescribed and shall be valid till the 30th June next following and shall be renewable in the prescribed manner.

(*5*) If the occupier commits any breach of the conditions of this licence, the prescribed authority may, with the prior approval of the [2][State] Government, cancel or refuse to renew his licence.

Returns.

6. (*1*) Every occupier shall furnish to the prescribed authority, before the seventh day of each month, a return stating the total quantity in [4][tons] of sugarcane [5][which entered into the local area comprised in his factory for consumption or use therein] during the preceding month, together with such further information in regard thereto as may be prescribed.

(*2*) Every such return shall be made in such form and shall be verified in such manner as may be prescribed.

Collection of cess.

7. (*1*) On receiving any return under section 6, the prescribed authority shall assess the cess payable in respect of the period to which the return relates and if the amount has not already been paid shall cause a notice to be served upon the occupier requiring him to make payment of the amount assessed within ten days of the service of the notice.

(*2*) If the occupier fails to furnish in due time the return referred to in section 6 or furnishes a return which in the opinion of the prescribed authority is incorrect or defective, the prescribed authority shall assess the amount payable by him in such manner as may be prescribed and the provisions of sub-section (*1*) shall apply as if such assessment has been made on the basis of a return furnished by the owner :

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1. These words were substituted for the words " six annas per mound " by Bom. 61 of 1950, section 3.
2. This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
3. This proviso was added by Bom. 61 of 1950, section 3.
4. This word was substituted for the word " mounds ", *ibid*, section 4.
5. These words were substituted for the words " consumed or used by his factory, *ibid*.

Provided that in the case of a return which he has reason to believe is incorrect or defective, the prescribed authority shall not assess at an amount higher than that at which it is assessable on the basis of the return without giving to the occupier a reasonable opportunity of proving the correctness or completeness of the return.

(*3*) A notice under sub-section (*1*) may be served on the occupier either by post or by delivering it or tendering it to the occupier or his agent at the factory.

Finality of assessment and recovery of unpaid cess.

8. (*1*) An assessment made in accordance with the provisions of section 7 shall not be questioned in any court.

(*2*) Any occupier aggrieved by an assessment made under section 7 may, within three months of service of the notice referred to in sub-section (*1*) of that section, apply to the prescribed appellate authority for the cancellation or modification of the assessment and, on such application, the prescribed appellate authority may cancel or modify the assessment and order the refund to such occupier of the whole or part, as the case may be, of any amount paid thereunder.

(*3*) Any amount recoverable under section 7 may be recovered as an arrear of land revenue.

CHAPTER III.

MISCELLANEOUS.

Power to inspect factories and take copies of records and accounts.

9. (*1*) The prescribed authority shall have free access at all reasonable times during working hours to any notified factory or to any part thereof.

(*2*) Such authority may at any time with or without notice to the occupier, examine the working records and accounts of any notified factory and take copies of or extracts from all or any of the said records or accounts for purposes of testing the accuracy of any return for informing himself as to the particulars regarding which information is required for the purposes of this Act or any rules made thereunder.

(*3*) Where the prescribed authority proposes to examine under sub-section (*2*) any record or account containing the description or formulae of any trade process, the owner of the notified factory may give to the said authority, for transmission to the [1][State] Government, a written notice of objection and thereupon the said authority shall seal up the record or account pending the orders of the [1][State] Government.

Information acquired to be confidential.

10. (*1*) All such copies and extracts and all information acquired by the prescribed authority from an inspection of any notified factory or any part thereof or from any return submitted under this Act shall be treated as confidential.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*2*) If, save as provided in sub-section (*3*) the prescribed authority discloses to any person any such information as aforesaid without the previous sanction of the [1][State] Government he shall, on conviction, be punished with imprisonment which may extend to six months or with fine or with both.

(*3*) Nothing in this section shall apply to the disclosure of such information in respect of the making of a false return under this Act.

Application of proceeds of cess.

[2][**11.** (*1*) The proceeds of the cess and fees recovered under this Act shall first be credited to the Consolidated Fund of the State and shall after deduction of the expenses of collection and recovery be shown into and transferred to a separate fund called the State Sugarcane Cess Fund.

(*2*) The Fund shall be expended in such manner and under such conditions as may be prescribed for the purposes of the development and improvement of cultivation, growth and marketing of sugarcane and other irrigated crops, for the development of sugar industry and for the improvement and development of agriculture in general in the State of Bombay.

(*3*) Any amount transferred to the State Sugarcane Cess Fund in accordance with the provisions of sub-section (*1*) shall be charged on the Consolidated Fund of the State.]

Penalty.

12. If the occupier consumes or uses sugarcane in a notified factory without obtaining a licence under section 5, he shall, on conviction, be punished with fine which may extend to one thousand rupees.

Determination of occupier for the purpose of Act.

13. (*1*) Where the occupier is a firm or other association of individuals, any of the individual partners or members thereof shall be responsible for the observance of the provisions of this Act and may be prosecuted and punished under this Act for any offence for which the occupier is punishable :

Provided that the firm or association may give notice to the prescribed authority that it has nominated one of its members who is resident in the [3][State] to be occupier for the purposes of this Act and such individual shall so long as he is so resident be deemed to be the occupier for the purposes of this Act until further notice cancelling the nomination is received by the prescribed authority or until he ceases to be the partner or member of the firm or association.

(*2*) Where the occupier is a company, any one of the directors thereof, or in the case of a private company, any one of the share-holders thereof may be prosecuted and punished under this Act for any offence for which the occupier is punishable :

Provided that the company may give notice to the prescribed authority that it has nominated a director or, in the case of a private company, a shareholder who is resident in either case in the [3][State], to be the occupier for the purposes of this Act and such director or shareholder shall, so long as he is so resident, be deemed to be the occupier for the purposes of this Act, until further notice cancelling the nomination is received by the prescribed authority or until he ceases to be a director or shareholder.

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[2] Section 11 was substituted for the original by Bom. 56 of 1950, s. 4.
[3] This word was substituted for the word " Province" by the Adatpation of Laws Order, 1950.

14. (*1*) The [1][State] Government may make rules for the purpose of carrying into effect all or any of the provisions of this Act. Power to make rules.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

[2][(i-*a*) the proportion of the gross weight of sugarcane for the purposes of deduction under the proviso to section 4 ;]

(*a*) the manner in which and the authority to which application for licence shall be made and the fee with which it shall be accompanied under section 5 ;

(*b*) the conditions subject to which a licence shall be granted under section 5 and the manner in which it shall be renewable ;

(*c*) the further information to be furnished under section 6, the authority to which and the form in which such returns shall be furnished and the manner in which such returns shall be verified ;

(*d*) the manner in which the amount payable under section 7 shall be assessed ;

(*e*) the appellate authority to whom an application for cancellation or modification of assessment shall be made under section 8 ;

(*f*) the authority which can inspect notified factories ;

(*g*) the manner in which and the conditions subject to which the accumulations in the Provincial Sugarcane Cess Fund shall be expended ;

(*h*) the authority to whom notice is to be given under section 13 ; and

(*i*) any other matter which is to be or may be prescribed.

(*3*) In making any rule under sub-sections (*1*) and (*2*), the [1][State] Government may provide that a breach of the rule shall, where no penalty is provided by this Act, be punishable with fine not exceeding one thousand rupees.

(*4*) Rules made under this section shall be subject to the condition of previous publication.

*CHAPTER IV.

TRANSITIONAL PROVISIONS.

[*Deleted by Bom. 61 of 1950, s. 6.*]

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[1] This word was substituted for the word "Provincial", by the Adaptation of Laws Order, 1950.

[2] Clause (i-*a*) was inserted by Bom. 61 of 1950, s. 5.

* Section 6 of Bom. 61 of 1950 reads as follows :—

6. Chapter IV of the said Act shall be deleted :

Bom. LXI of 1950.

Provided that the deletion of the said Chapter shall not affect any obligation or liability already accrued or incurred or any proceeding or remedy in respect of such obligation or liability or anything done or suffered to be done under the said Chapter before the Bombay Sugarcane Cess (Amendment) Act, 1950, comes into force. Deletion of Chapter IV of Bom. LXXXII of 1948.